

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

CANDIDO MONTANEZ, JR.,	)	Case No.: 1:11 CV 2475
	)	
Plaintiff	)	
	)	
v.	)	
	)	JUDGE SOLOMON OLIVER, JR.
MICHAEL J. ASTRUE	)	
Commissioner of Social Security,	)	
	)	
Defendant	)	<u>ORDER</u>

The Commissioner of Social Security (the “Commissioner”) denied disability benefits to the claimant, Candido Montanez, Jr. (“Plaintiff”) in the above-captioned case. Plaintiff sought judicial review of the Commissioner’s decision, and this court referred the case to Magistrate Judge Kathleen B. Burke for preparation of a report and recommendation (“R & R”). Both parties submitted briefs on the merits. Plaintiff sought an order remanding the case. The Commissioner sought final judgment upholding the decision below.

Magistrate Judge Burke submitted her R&R on November 20, 2012, recommending that the case be remanded (ECF No. 17.) First, she found that the Administrative Law Judge (“ALJ”) made a finding that Plaintiff had moderate limitations in concentration, persistence, or pace. Next, she determined that the ALJ did not properly account for Plaintiff’s limitations in the his residual functional capacity determination or in his hypothetical question to the Vocational Expert. Accordingly, she concluded, the ALJ’s determination that Plaintiff is not disabled is not supported by substantial evidence

Neither Plaintiff or Defendant filed objections to the R&R.

The court finds, after careful *de novo* review of the Magistrate Judge's Report and Recommendation and all other relevant documents in the record, that the Magistrate Judge's conclusions are fully supported by the record and controlling case law. Accordingly, the court adopts as its own the Magistrate Judge's R&R (ECF No. 17) and hereby reverses the Commissioner's decision and remands the case for further proceedings consistent with this Order and Magistrate Judge Burke's R&R.

IT IS SO ORDERED.

/s/ SOLOMON OLIVER, JR.  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

December 19, 2012